

A Brighter, Clearer Voice for Children

New Standards Clarify Role of Child Counsel in Custody Cases

New standards adopted by the Conference of Circuit Judges will provide guidance to attorneys appointed by the court to represent children in custody cases. The "Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases" were developed by the Judicial Conference Committee on Family Law and its Custody Subcommittee, under the direction of subcommittee chair, Baltimore City Circuit Court Judge Marcella Holland.

The Conference of Circuit Judges reviewed the standards and adopted them for use by the circuit courts at its September meeting. The standards apply to court-appointed attorneys in child custody matters, including divorce cases where there are child custody issues. The standards do not apply to Child In Need of Assistance (CINA), Termination Of Parental Rights (TPR) or related adoption cases as those are already governed by the "Guidelines of Advocacy for Attorneys Representing Children in CINA, TPR and Related Adoption Cases (CINA/TPR Guidelines)".



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MD Passes TITLE IV-E Review

Federal Reviewers Note "Dramatic Improvement" In Maryland's Efforts

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Earlier this year the Federal Administration for Children and Families (ACF), along with the Maryland Department of Human Resources (MDHR), conducted a secondary review of Maryland's Title IV-E Program. The review, officially known as the Title IV-E Foster Care Eligibility Review (Title IV-E Review), examined the state's compliance with federal regulations relating to funding for foster care and accountability for foster care financial claims on behalf of eligible children and providers.

Although the Title IV-E regulations specifically pertain to aspects of the state's foster care system, a successful review requires a collaborative effort across all systems, especially between the court and MDHR. The Title IV-E review also

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Lawyers and other Professionals Serving Children and Families



Pamela Cardullo Ortiz,
Executive Director
Family Administration

When I was in graduate school I had a roommate who was a medical student. He took great pride in speaking of his commitment to pediatrics, which he assured me was the lowest paying medical specialty. I always admired Jerrold and wonder today how his pediatric practice is going.

He would be surprised to hear I went into law (I was a divinity school student at the time.) But he would probably be happy to hear that I began my legal career representing children in abuse and neglect proceedings. From there I went on to work in the field of family law, which like representing children in abuse and neglect proceedings, is at the lower end of the legal specialty pay scale.

It seems that most, if not all, professions serving children and families are undervalued. That plays itself out in how the individuals in those fields are compensated—not just in law and medicine, but also in all child-oriented fields—teaching, social work, daycare.

And yet if we truly believe, in the words of George Benson—who said it before Whitney—that "children are our future," our society makes a mistake in not valuing the work of those professionals who dedicate their careers to shoring up that future by educating, supporting, and protecting our children. I have an aunt who is an elementary school principal. She will tell you she loves her work and believes in it. She wants to make sure today's kids have the very best education and grow to be thoughtful, intelligent adults because, when she retires they will be the ones making decisions that affect her life.

In this issue of *Family Matters* we feature a new set of standards adopted by the Maryland Judiciary to guide attorneys in effectively representing children in custody cases. In staffing the Custody Subcommittee that developed those standards, I was reminded of and impressed by the many thoughtful attorneys who dedicate tremendous time, energy and expertise to representing children in our state.

The new standards are designed to leverage the quality of representation available to children in Maryland. They also provide guidance to courts on how to manage effective child counsel panels, and urge courts to provide for and secure compensation for those attorneys.

The standards are also a reminder of how critical it is that children are provided quality representation. Representing children is serious, important work—not only because children need and deserve a voice when decisions are made on their behalf—but because the decisions we make for them are decisions we make for our world and ourselves.

So. . . in my utopia, the world will be turned upside down. Teachers, social workers, pediatricians, and child counsel will make CEO salaries, and rock stars, brokers, and bankers will get modest, but livable compensation packages. Perhaps, like other kid stuff, it's just the stuff of fairy tales . . . but sometimes fairy tales come true, don't they?

family matters

We welcome your comments and contributions.

Please call or write: Pamela Cardullo Ortiz, Exec. Director

Department of Family Administration, Administrative Office of the Courts

Maryland Judicial Center, 580 Taylor Ave., Annapolis, MD 21401 (410) 260-1580

www.courts.state.md.us/family

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Regular contributors at the Department of Family Administration include: Clifton Files, Hope Gary, Althea Stewart Jones, Pamela Cardullo Ortiz, and Tracy Watkins-Tribbitt.

A Family Disease

Family Division Conference Highlights Role of Court in Addressing Substance Abuse and Addiction

When Maryland courts confront families where substance abuse or addiction is involved, those underlying issues may need to be addressed before families can deal with the problems that brought them into court. Whether the family appears in a divorce, custody, child welfare, or delinquency matter, substance abuse and addiction may play a powerful role. Maryland judges, masters, court professionals, and service providers had an opportunity to learn more about the science of addiction at a recent statewide conference—a science which has important implications for courts and treatment providers.

The conference, entitled *A Family Disease: The Impact of Addiction and Substance Abuse on Children, Families, Family Courts and Communities*, featured scientists, physicians, policymakers and judges from around the country.

Behavior and Disease

In the opening plenary session, Dr. Lucinda Miner of the National Institute on Drug Abuse (NIDA) at the National Institutes of Health (NIH) distinguished abuse from addiction. Drug abuse is a preventable behavior; drug addiction is a treatable disease. She urged attendees to treat addiction as a chronic, relapsing disease. Too often, she noted, relapsing addicts are stigmatized. Stigma should play no role; rather we should view relapse among patients being treated for addiction no different from relapse in other chronic diseases, e.g., diabetes, hypertension, and asthma. Relapse among addicts is not a moral failure but part of the natural course of treatment. This suggests that to be effective, treatment must be long-term.

Other presenters focused on the science of the brain and its role in addiction. Dr. David C. Lewis of Physicians and Lawyers for National Drug Policy and founder of the Brown University Center for Alcohol and Addiction Studies noted that while few courts make referrals to pharmacotherapy programs, this would be a more important therapy for addicts in the future. Other presenters noted that detoxification is not equivalent to treatment. Generally, the longer the treatment the more likely the addict is to be successful.

Judge Karen Freeman Wilson (ret.), now Chief Executive Officer of the National Association of Drug Court Professionals and Executive Director of the National Drug Court Institute, noted that the Adoptions and Safe Families Act (ASFA) requires courts in child welfare cases to act quickly. Under ASFA-driven timelines, drug-addicted parents may not have the time to obtain effective treatment. She noted that drug courts are often effective because by using regular supervision over short intervals, by creating incentives, and by providing sanctions against non-compliance, they can keep individuals in treatment long enough for it to have a meaningful effect.

Approximately 138 judges, masters, service providers, and court personnel attended the conference, which was held September 23, 2005, at the Loyola Graduate Conference Center in Timonium. The Center on Families, Children and Courts of the University of Baltimore produced the conference with funding from the Maryland Administrative Office of the Courts, Department of Family Administration, and the Open Society Institute.



MD Passes TITLE IV-E Review, from p. 1

examines court orders and the court's findings regarding the agency's efforts in handling foster care cases.

Title IV-E reviewers examined Maryland's compliance with the following regulations:

- "Contrary to the welfare" and "reasonable efforts" judicial determinations;
- Voluntary placement agreements;
- State agency responsibility for placement and care;
- Placement in a licensed foster family home or child care institution;
- Criminal records check and safety considerations for foster care providers;
- Aid to Families with Dependent Children (AFDC) eligibility (as of July 16, 1996).

To determine whether a state is in "substantial compliance" with the Title IV-E requirements, the reviewers audit a sample of the state agencies' child welfare and provider records for a six-month period. This was a "secondary review" to determine if required improvements had been made since an initial review

was conducted during Federal Fiscal Year 2002.



For Maryland, the period under review was April 1, 2004, to September 30, 2004. In this secondary review, 150 case records were examined, compared to the 80 cases reviewed during Maryland's initial or primary review.¹ Immediately after the initial

Title IV-E Review, the courts hosted Regional Multi-Disciplinary Training meetings to address the Title IV-E Review results. Additionally, color-coded uniform court orders were

disseminated to all Maryland courts to assist with ensuring adequate documentation. These efforts contributed to a "dramatic improvement," as noted in Maryland's secondary review; only 12 error cases were found as opposed to 37 during the primary review.

Additionally, Maryland was recognized for the collaborative effort across systems to improve since the last Title IV-E Review. The ACF reported that, "it is apparent that the MDHR, the local departments of social services, the courts, the Court Improvement Program, and other MDHR partners labored successfully together to substantively address errors identified in the initial primary review."

To find out more about the Title IV-E Review process go to: <http://www.acf.hhs.gov/programs/cb/>, or contact the Maryland Department of Human Resources, Title IV-E Representatives at 410-767-7480 or the Foster Care Court Improvement Project at 410-260-1427.

Note

1. Although a state is subject to regular Title IV-E reviews every three years, the penalties for being not in compliance are more strenuous during a secondary review. During the primary Title IV-E Review, the federal government looks at a smaller sample of the state agency records to determine substantial compliance.

If a state is found not in substantial compliance during the primary review, the state has one year to develop and implement a program improvement plan to address the factors contributing to its non-compliance. In addition, the state must undergo a secondary review, where a larger sample, 150 cases, are reviewed and the financial penalties can be substantial.

If a state is found in substantial compliance during the secondary review, then the next review (in three years) follows the guidelines of the initial review.



Great Success for C.A.N.D.O. Out West!!

The Eighth Annual Child Abuse, Neglect, and Delinquency Options (C.A.N.D.O.) Judicial Conference, sponsored by the Department of Family Administration and its Foster Care Court Improvement Project, took place in the western mountains of Flintstone at the Rocky Gap Lodge and Golf Resort, October 17-19, 2005.

This year's conference attendees revisited a multi-disciplinary format summoning more than 300 juvenile judges, masters, attorneys, social workers, Court Appointed Special Advocates (CASAs), and other key child welfare stakeholders.

With crisp fall breezes, the sun's reflection on the beautiful lake, and the autumnal foliage as the background, conference attendees settled into a three-day issue-packed conference. This year's conference addressed many issues related to the federal Child and Family Service Reviews (CFSR), and the subsequent Program Improvement Plan, with a particular emphasis on improving our efforts to establish permanency in a more timely fashion.

Maryland Court of Appeals Chief Judge Robert M. Bell launched the first day with a warm welcome, congratulating attendees for their hard work and dedication toward Maryland's most recent accomplishment of passing the secondary review of the federal Title IV-E program. After his opening remarks, Judge Bell introduced Court of Appeals Judge Lynne Battaglia. Judge Battaglia provided the keynote address, on the importance of professionalism in court.

The rest of the multi-disciplinary day offered several different forums on permanency. Court and agency representatives from North Carolina, Delaware, Los Angeles County, California, and Allegheny County (Pittsburgh), Pennsylvania presented workshops on permanency initiatives implemented in their respective jurisdictions. Sue Badeau, Pew Commission, rounded out the morning with a comprehensive, practical presentation on permanency results.

During the afternoon session participants engaged in an interactive mock trial. Led by Montgomery County Circuit Court Judge Dennis McHugh, the "players," including court

professionals from around the State, conducted a permanency planning hearing highlighting a variety of issues: professionalism, engagement of parties, continuances, locating parents, proper documentation, concurrent planning, appropriate judicial determinations, and permanency planning for 10- to 16-year-olds.

The audience was invited to participate at various times throughout the mock trial and the "players" were given an opportunity to showcase their litigation and acting abilities live and in person at the end of the session during closing arguments and the court's ruling.

Department of Human Resources (DHR) Secretary Christopher McCabe provided closing remarks, highlighting the importance of collaboration between the court and his agency on both a statewide and local level.

The second conference day, for judges and masters only, featured a more traditional format. The opening session featured Master Ann Sparrough, Circuit Court for Prince George's County, and Wayne Stevenson, Social Services Administration, Department of Human Resources. Stevenson presented DHR's strategic plan, highlighting key actions the department hopes to implement including: re-engineering the child welfare services and delivery system, applying evidence-based practice strategies to enhance services and child outcomes, enhancing collaboration with business partners and stakeholders,



Judges Julia Weatherly and Sherrie Krauser, Circuit Court for Prince George's County.

photo by Tracy Watkins-Tribbitt

Judge Kaminetz Retires

by Linda Grove

Family Support Services Coordinator
Circuit Court for St. Mary's County



Judge Marvin Kaminetz

photo by Kim Underwood

The St. Mary's County Circuit Court said a sad farewell to Judge Marvin S. Kaminetz on November 4, 2005. Judge Kaminetz has been committed to families and children during his 32 years on the bench.

His official retirement date was November 5, 2005.

However, he will remain on the bench until his successor has been appointed and sworn in.

His many contributions to the family law arena include implementing and providing the leadership for Child Welfare Day, an annual conference held for the past 27 years, bringing Big Brothers Big Sisters to the county, and supporting the Court Appointed Special Advocate (CASA) Program, just to name a few. Over the years,

Judge Kaminetz has been a member of the Judicial Conference Juvenile Law Subcommittee, as well as a member of the Foster Care Court Improvement Project Implementation Committee and Training Subcommittee.

Most recently, Judge Kaminetz, along with Maryland Court of Appeals Chief Judge Robert M. Bell, State Court Administrator Frank Broccolina, Foster Care Court Improvement Director Tracy Watkins-Tribbitt, and Maryland Director of Social Services Wayne Stevenson attended *Justice for Children: Changing Lives by Changing Systems -A National Leadership Summit* in Minneapolis, Minnesota in September 2005. The five-person team developed Maryland's Child Welfare Action Plan, implementation of which is set to begin within the next few months.

Judge Kaminetz was appointed master for juvenile causes in 1974 and was appointed to the circuit court as a judge in October 1989. He was elected to a 15-year term in November 1990. On July 2, 2005, Judge Kaminetz began his 32nd consecutive year as master or judge of Juvenile Court for St. Mary's County. He retired as the Administrative Judge for the Circuit Court.

Judge Kaminetz was born on August 11, 1943, in Baltimore. He graduated from the University of Maryland School of Law in 1968. Prior to his appointment, Judge Kaminetz served as a director on the St. Mary's County Domestic Violence and Sexual Assault Board and the St. Mary's County Commission on Women. He also taught the Rape and Sexual Assault Prevention Program in the St. Mary's County Public School System.

Judge Kaminetz served for six years on the Executive Committee of the Maryland Circuit Court Judges Association and was president of the association from 1997 to 1999. After retiring, Judge Kaminetz plans on spending more time with his wife, Ida, and their seven (and still counting) grandchildren. He will be sorely missed by his friends and colleagues in St. Mary's County and by the Judiciary as a whole.

New Standards in Custody Cases, from pg. 1

The standards were developed with three goals in mind:

- to improve the quality and availability of representation for children in custody cases;
- to promote consistency of practice and terminology around the state; and
- to provide a uniform set of standards for attorneys in these cases.

In drafting the standards, the Custody Subcommittee drew from two existing standards, one national and one specific to Maryland. The subcommittee looked in part to the "American Bar Association Standards of Practice for Lawyers Representing Children in Custody Cases (ABA Standards)" as well as to the Maryland "CINA/TPR Guidelines."

Best Interest Attorney

The standards include new terminology adopted from the "ABA Standards" with some differences in how those terms are defined and fleshed out. Three distinct roles are envisioned for Maryland attorneys representing children. In the new Maryland standards, the term "Best Interest Attorney" replaces the Latin term "*guardian ad litem*." A Best Interest Attorney is appointed to advocate for the child's best interest. The Best Interest Attorney should not testify at trial but should provide written recommendations and a basis for those recommendations to opposing counsel or parties and court 10 days prior to trial.

In lieu of a Best Interest Attorney, the court may appoint a Child Advocate. The Child Advocate is appointed to provide independent legal counsel for a child and owes to that child the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client. This type of attorney should be appointed when a child is in need of a "voice in court."

Finally, the term "*Nagle v. Hooks* attorney" is replaced with the term "Child's Privilege Attorney." The latter is an attorney appointed to assert or waive a statutory privilege on behalf of a minor child.

From the "CINA/TPR Guidelines," the subcommittee adopted the definition of "considered judgment." The new standards anticipate that, if appointed as a Child Advocate, the attorney may need to petition the court to alter his or her role if the attorney finds the child does not have considered judgment.

The new standards go on to define the duties of the various types of child counsel. The standards also address issues of ethics, confidentiality, training, qualifications, compensation, and appointments.

The Conference of Circuit Judges endorsed the Committee on Family Law's recommendation that the new standards be incorporated or at least referred to in the Maryland Rules of Professional Conduct, and, if by reference, included as an appendix to those rules. Prince George's County Circuit Court Judge William D. Missouri, Chair of the Conference, has forwarded the new standards to the Rules Committee with that recommendation.

The new standards are available on the Judiciary's web site at: <http://www.courts.state.md.us/family/otherpublications.html>.



New Surveys to Garner Feedback from Litigants, Attorneys

Several issues ago, *Family Matters* reported that the Department of Family Administration was awarded a grant from the State Justice Institute to develop surveys evaluating the impact of Family Divisions and Family Services Programs. An outside vendor crafted four survey tools—a litigant satisfaction survey, an attorney satisfaction survey, and two program exit surveys for co-parenting and self-help programs. The consultant also developed an implementation plan. The surveys provide a mechanism for litigants, attorneys, and program users to give direct feedback on how Maryland courts are serving their needs.

The Process

In August 2005, Department of Family Administration staff briefed family division administrators and family support services coordinators on plans for implementation of the new survey tools. After receiving additional input and feedback, procedural steps were finalized. Judicial Information Systems will generate a report listing attorneys, litigants, and their contact information for those involved in cases, which are closed during December 2005. Two of the surveys, the litigant satisfaction and attorney satisfaction surveys, will be mailed to those individuals directly during January 2006. Approximately one out of every 10 litigants will need to return the survey in

order to obtain a valid sample. One out of every three attorneys will need to return their survey to have valid attorney satisfaction survey results.

Data from the other two surveys will be collected during March 2006. Vendors contracted to conduct the courts' co-parenting classes and self-help programs will disseminate the surveys to participants and program users. The vendors, with the assistance of the family support services coordinators, will forward the completed confidential surveys to the Administrative Offices of the Courts in April 2006. Every participant will receive the co-parenting class survey upon completion of the class. A 90 percent return rate is expected. One out of every 10 participants in the self-help programs will need to return the survey.

Survey results will be compiled and shared with courts to aid them in reviewing their progress and success in assisting children and families.



Regional Trainings Highlight

DV Screening Tools

A series of six regional trainings were held to provide guidance to courts, self-help providers and mediators in how to effectively screen cases for domestic violence. The classes, held in Cumberland, La Plata, Centreville, Princess Anne, Rockville, and Lutherville, were geared for three distinct groups: court personnel, self-help providers, and mediators or other alternative dispute resolution (ADR) professionals. The trainings were being held during November and December.

Tools

The Maryland Judicial Conference recently adopted a set of tools and guidelines to aid the courts in screening domestic cases including divorce, custody, and visitation cases, for the presence of family violence issues. This was done to allow the courts to more effectively determine which cases are appropriate for mediation. The screening protocol and tools and the training procedures were developed by a working group comprised of the Maryland Administrative Office of the Courts, Department of Family Administration, in conjunction with the Maryland Network Against Domestic Violence and its members, the House of Ruth, the Mid-Shore Council on Family Violence, the University of Baltimore, School of Law, and the Maryland Mediation and Conflict Resolution Office. The Maryland Judicial Conference, Committee on Family Law and its Domestic Violence Subcommittee revised the tools with the Conference of Circuit Judges granting final approval.

The domestic violence screening protocol establishes that all domestic cases, which include divorce, custody, and visitation cases, are to be screened to determine whether there are allegations of family violence, or to determine if the parties or their children may be at risk for family violence. Family violence may manifest itself in a variety of ways. In violent families, several dynamic factors are often at work. Victims may be fearful or stressed; some may exhibit post-traumatic stress disorder. The power and control dynamic may create an imbalance in negotiating position and ability. These dynamics may make mediation or other forms of ADR ineffective, detrimental, or even dangerous to victims and their children.

Family violence issues are often difficult to identify. The protocol suggests cases be screened at several different points in the case management system by:

- Programs that provide assistance to self-represented litigants;
- The court at the time the pleadings are filed;
- The court at the time of a scheduling conference or other initial appearance; and
- The mediator or other ADR professionals, at the time the litigants appear for an initial session.

For additional information on trainings or the document, *Screening Cases for Family Violence Issues to Determine Suitability for Mediation and Other Forms of ADR*, or for technical assistance in implementing the tools in your court, contact Clifton Files at 410-260-1580 or clifton.files@courts.state.md.us.



Foster Care Court Improvement Project . .

With a fresh start in a new direction, the Foster Care Court Improvement Project began focusing on the future goals outlined in its strategic plan. The FCCIP's application and reassessment to the federal government was received and approved. As such, federal funding for Maryland's FCCIP will continue for the next two fiscal years. In the notification of the FCCIP grant award, David Lett, Regional Administrator, Department of Health and Human Services, commended the FCCIP's efforts noting, "The FCCIP continues to add to a long list of noteworthy accomplishments and outcomes in the interest of the safety, permanence and well-being of the State's children and families." The accomplishments Lett commended include:

- The continuance of activities addressing the areas needing improvement identified in the major reviews (Title IV-E and Child and Family Services Review) (CFSR). These include review of court orders to provide input and technical assistance surrounding hearing outcomes and compliance with state and federal laws. They also encompassed requesting and receiving input from the courts on the development of the CFSR Program Improvement Plan (PIP).
- The work of the Child in Need of Assistance/Legislative Subcommittee specifically as it relates to the enactment of Maryland's Termination of Parental Rights/Adoption statute which took effect January 1, 2006. Provision of training to judges and masters on the statute at the annual October conference.



- The initiation of the development of two Model Court Programs through the National Council of Juvenile and Family Court Judges (NCJFCJ). This project should further strengthen court processes and outcomes in the context of state and federal requirements. (In October 2005, both Baltimore City and Charles County sent teams to participate in the NCJFCJ Model Courts all sites planning conference to identify goals and objectives for their respective programs in the coming year.)

Maryland Court of Appeals Chief Judge Robert M. Judge Bell formally responded to Lett's remarks, acknowledging his praise and advising that Maryland has redoubled its focus on improving the court's role to help children and families achieve permanency more quickly.

The New Year will find the FCCIP "on the road" in an attempt to work more closely on site with the local courts to assist with the many recommendations, goals and initiatives outlined in the FCCIP strategic plan, American Bar Association evaluation recommendations, and the federal Program Improvement Plan. It is hoped that the FCCIP staff can assist the courts in identifying local resources to help implement their initiatives.

Legislative Subcommittee

Legislative Subcommittee members, Rhonda Lipkin, Vanita Taylor, and Cathy Shultz, presented at this year's annual Child Abuse, Neglect, and Delinquency Options Judicial Conference on the new TPR/Adoption legislation. Currently the subcommittee is

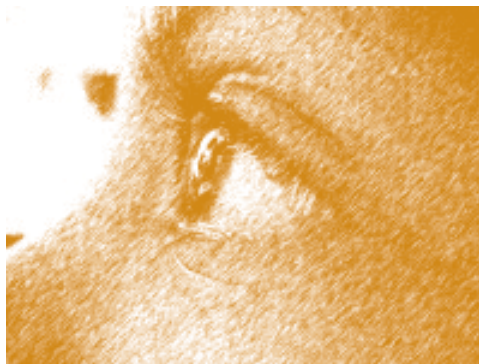
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. . . Update

preparing amendments to the TPR statute, and will begin addressing potential changes to the current CINA statute. For more information regarding the Legislative Subcommittee, please contact Hope Gary, Esq., FCCIP Assistant Director at 410-260-1728.

Representation, Practice, and Procedure Subcommittee

In October, the Representation Subcommittee hosted training for attorneys and other child welfare stakeholders on the new TPR/Adoption legislation and changes in the CINA Statute. The subcommittee continues to explore developing standards of representation for agency and parents' attorneys. The subcommittee has drafted a standardized Notice of Right to Counsel for Parents to assist courts in advising parents of their right to counsel. The FCCIP has recently hired an intern to research issues or barriers to the expedited appeals process for CINA and related TPR cases. For more information regarding the Representation Subcommittee, please contact Hope Gary, Esq., FCCIP Assistant Director at (410) 260-1728.



Statistics Oversight Subcommittee

Kudos to the Statistics Oversight Subcommittee for its development of the uniform court orders being utilized in most jurisdictions throughout the state. Federal authorities noted "high quality orders" as a major improvement in the recent Title IV-E review.

The Statistics Oversight Subcommittee continues to work toward improving the various information systems used throughout the state to enhance the

reliability of CINA and related TPR and adoption statistics. The subcommittee remains hopeful that the newly established "Quality Assurance Protocol" will assist the FCCIP in ensuring the integrity of juvenile case data. The subcommittee will address other areas outlined in the Strategic Plan. For more information regarding the Statistics Subcommittee, please contact Tracy Watkins-Tribbitt, FCCIP Director at 410-260-1272.

Training Subcommittee

The Training Subcommittee successfully and hosted the Eighth Annual Child Abuse, Neglect, and Delinquency Options (C.A.N.D.O.) Judicial Conference held October 17-19, 2005, at the Rocky Gap Lodge and Golf Resort in Flintstone. After taking a short period for some much deserved rest, the subcommittee will begin planning for next year's ninth annual conference.

The Training Subcommittee has also begun the process of updating the FCCIP *Child Welfare Benchmark*. The update will include information on the *Permanency for Families and Children Act of 2005*, as well as other significant changes in child welfare law and the development of the Best Practices Manual. The subcommittee is hopeful that the planned updates will continue to make the benchmark a useful resource.

For more information or questions regarding the Training Subcommittee or suggestions for next year's conference, please contact Tracy Watkins-Tribbitt, MSW, Director of the FCCIP at 410-260-1272.

First Circuit Welcomes Master Robert E. Laird, Second Circuit Welcomes Master Patrick J. Palmer



Eastern Shore Appoints New Masters

Robert E. Laird

On August 1, 2005, Robert E. Laird was sworn in as a family/juvenile law master for Somerset County. Master Laird was born March 19, 1963, in Salisbury to the late Robert E. Laird and Elizabeth Diane Parks Laird. His relatives were among the first settlers of Somerset County, and he has been, with the exception of law school, a lifelong resident of Somerset County. He went to the public schools in Somerset County, graduating (along with Director of Family Administration Althea Stewart Jones) from Washington High School in 1981 and graduated from Salisbury State College with a bachelor's degree in History and Political Science in 1985. He received his juris doctorate from the University of Baltimore School of Law in 1988.

Upon graduation, Master Laird clerked for Wicomico County Circuit Court Judge Alfred T. Truitt and Wicomico County Circuit Court Judge D. William Simpson until September 1989, when he was hired by Logan C. Widdowson, Esq. as an Assistant State's Attorney for Somerset County. He was employed there from 1989 until being sworn in August 1, 2005. Master Laird's experience at the State's Attorney's office included prosecuting everything from murder cases to nuisance violations. His primary assignment, however, was to handle District Court and juvenile cases. He prosecuted most of the delinquency cases in the county, and represented the Somerset

County Department of Social Services in Children in Need of Assistance proceedings.

Master Laird is married to Deborah Ann Layfield Laird, and they have one daughter, Caitlin Alayne Laird.

Patrick J. Palmer

Master Patrick J. Palmer was sworn in as Domestic Relations and Juvenile Master for the Second Judicial Circuit on August 8, 2005. He hears domestic and juvenile proceedings in Queen Anne's, Kent, and Cecil counties. Master Palmer graduated from the University of Wisconsin in 1986 with a degree in economics. He graduated from the University of Baltimore School of Law in 1990.

Moving to the Eastern Shore after graduation, he began to work for the firm then known as Foster & Braden in Stevensville, where his practice was primarily general civil litigation with an emphasis on family law. Master Palmer became a partner in the firm, then known as Foster, Braden, Thompson & Palmer in 1998, where he continued to expand his family law practice. That year he was also named local agency counsel for the Talbot County Department of Social Services.

Master Palmer has been married for 12 years and has a son, age 10, and a daughter, age 8.

CANDO Judicial Conference, from p. 5

and transforming Baltimore City child welfare services.

Master Sparrough presented on the efforts of the FCCIP's Best Practices Work Group, in developing a manual of best practices designed to address areas needing improvement identified in the FCCIP reassessment/evaluation, court related areas in the Child and Family Service Reviews (CFSR) and Program Improvement Plan (PIP).

The manual will highlight best practices, policies, and procedures for Maryland courts and provide jurisdictions with an action plan for implementing those policies. Master Sparrough briefly discussed each of the best practices: One Judge, One Family, Early Identification of Parents-Parent Litany, Continuance Policy, Permanency Checklist for 10- to 16-Year-Olds, and Properly Conducted Hearings Checklist. Other stakeholders were invited to give feedback on the best practices identified by participating in a forum held November 18, 2005.

The rest of the day included break out sessions: Nuts and Bolts of Children In Need of Assistance (CINA), Nuts and Bolts of Termination of Parental Rights (TPR), What's New in CINA, Concurrent Planning, and What Constitutes Reasonable Efforts, and a comprehensive session on the new TPR/Adoption Statute provided by members of the FCCIP Legislative Subcommittee.

The third and final day of the conference focused on delinquency issues. Dr. Jay Giedd, National Institute of Mental Health, provided a riveting presentation on the Biological Basis of Cognitive, Emotional and Behavioral Disorders in Children and Adolescents. Afternoon sessions included four break out sessions on ASFA Issues in Delinquency Cases, Criteria for Placement of Delinquents, Nuts and Bolts of Delinquency, and An Exchange of Ideas with the Department of Juvenile Services. The day closed with remarks from Department of Juvenile Services Secretary Kenneth Montague and FCCIP Training Subcommittee Chair, Baltimore City Circuit Court Judge David W. Young.

Participants left equipped and ready to face another year, better able to promote the permanency, safety, and well-being of Maryland's children.



CANDO Conference Attendees

photo by Tracy Watkins-Tribbitt





mark your calendar

February 7, 2006	Coordinator Meeting Annapolis, MD	Pamela Ortiz 410-260-1580
May 9, 2006	Coordinator Meeting Annapolis, MD	Pamela Ortiz 410-260-1580
May 10-12, 2006	National Conference on Community-Based Access to Justice: Self-Help Centers, Volunteers, Partnerships and Technology, White Plains, NY	NY State Unified Court System 646-386-4715
May 31 - June 3, 2006	Association of Family and Conciliation Courts Conference, Tampa Bay, FL	AFCC 608-664-3750
November 13-17, 2006	40-hour Basic Mediation Course Trainer: To be announced. Annapolis, MD	Althea Stewart Jones 410-260-1580
December 11-13, 2006	20-hour Child Access Mediation Course Trainer: To be announced. Annapolis, MD	Althea Stewart Jones 410-260-1580

New Faces

Joan Dudley, Esq., joined the Department of Family Administration as a Juvenile Justice Specialist in October 2005. Ms. Dudley has a long history of representing children in CINA, TPR and delinquency cases. She also represented parents in those matters as well. She established and maintained a law office in Montgomery County for approximately nine years prior to moving to Mohave County, Arizona in 2002 to become the Managing Attorney at the Community Legal Services Program.

Ms. Dudley returned to Maryland in 2004 and re-established her law firm in Montgomery County where she focused on representing low-income clients in all family matters, landlord-tenant, general civil and criminal matters. She again represented children and parents in CINA, TPR, and delinquency issues. She holds a law degree from the City University of New York (CUNY) Law School in Flushing, New York.



photo by Pamela Ortiz



photo by Clifton Files

Launching Carroll County's Community Response to Violence

"When a bond of trust is violated through violence, asking for help may be difficult; however, it may be the greatest gift survivors can give themselves. Concerned members of Carroll County's community created this guide to provide survivors of violence, their friends, family members, and the community with a road map toward recovery."

This is a portion of the "Preface to Responding to Interpersonal Violence in Carroll County, Maryland." This booklet was launched on December 12, 2005 at a ceremony at the Theater at the Scott Center, Carroll Community College. The booklet was produced by the Carroll County Local Management Board. Powel Welliver, Family Law Administrator for the Circuit Court of Carroll County served as mistress-of-ceremony for the two-hour affair which included skits depicting different violent scenarios, audience participation, and a presentation on the Carroll County Clothesline Project.

The interpersonal resource directory discusses how friends and families can help, victim's rights, counseling, adult and child service systems, local resources, and web sites for additional information

Committee on Family Law Update

The Committee on Family Law held its initial meeting for the fiscal year on November 21, 2005. The committee welcomed back Prince George's County Circuit Court Judge Larnzell Martin, former chair of the committee, who was recently reappointed as a member of the committee. The committee reviewed subcommittee membership and discussed the need for a new chair for the Custody Subcommittee, to replace Judge Marcella Holland who recently resigned as subcommittee chair. The matter was still pending at the close of the meeting.

The committee discussed plans for the implementation of the juvenile competency bill that passed during the last legislative session, House Bill 802, and reviewed and approved revised orders for use in delinquency cases. The orders have been revised to aid the court in making findings required under the Adoption and Safe Families Act (ASFA). The orders

had been presented to the Conference of Circuit Judges who had asked that the committee review them first.

The committee reviewed a number of proposed new Domestic Relations forms and forms modifications. New forms to be developed for possible approval include a motion for postponement; and a petition to enroll a foreign order. Modifications were approved to DR55 and DR56 (Affidavits of Service) and to the address section of all forms. The committee discussed a proposal to develop a set of standards or best practices for custody or mental health evaluations. The committee concurred and referred the matter to the Custody Subcommittee.

Finally, the committee considered a proposal to draft legislation or a rule to authorize court orders or referrals for parenting coordination services. That matter was likewise referred to the Custody Subcommittee.

Recent Family Law Decisions

Family Matters highlights recent reported decisions of the Maryland Court of Appeals and Court of Special Appeals that address family law issues. Copies of reported opinions are available online at <http://www.courts.state.md.us/opinions.html>.

COURT OF APPEALS

Child Support

Harvey v. Marshall, et. al., No. 109, September Term, 2004. Opinion by Harrell, J. Bell, C.J., joins in the judgment only.

The trial court did not err in denying father's requests that child support arrearages be reduced or eliminated where, after having accumulated those arrearages, the father later resumed care of his children when their mothers became unable to care for them. In this case the children had been supported by welfare, during the period when the arrearages were accumulated, and their mothers had assigned their rights to child support to the State.

FL §12-204, which prohibits courts from retroactively modifying child support arrearages, precludes the court from eliminating completely those arrearages. Also, in exercising its discretion to settle arrearages for less than the full amount due, the Child Support Enforcement Administration (CSEA) is not bound to apply the "best interest of the child" standard. The "best interest of the State" standard established in FL § 10-112 should be read as an exception to the "best interest of the child" standard. CSEA is charged with using under FL § 10-118 in exercising its child support enforcement duties generally. Finally, CSEA was not arbitrary or capricious when it acceded to the child support collection vendor's request that the request be denied. In this instance CSEA was serving the "best interest of the State."

Contempt

Nnoli v. Nnoli, No. 149, September Term, 2004. Filed October 17, 2005. Opinion by Raker, J.

The trial court's denial of appellant's motion to quash an arrest warrant issued

in a contempt matter is a non-appealable interlocutory order. Appeal dismissed. In this case the appellant had been found in contempt for failing to return his children from Nigeria where they were staying with his relatives, despite a court order granting the respondent mother custody. The denial of the motion was not a final judgment because it did not determine and conclude the rights of the parties in the proceeding, or deny a party a means to prosecute or defend his rights. The court was willing to consider appellant's charge that he could not meet the terms of the purge, but to do so he would have had to have complied with the terms of the warrant which he did not do in failing to appear for the contempt hearing. The denial of the motion was also not an appealable interlocutory order as it does not fit any of the exceptions under CJP §12-303.

Delinquency

In re: Anthony W., No. 136, September Term, 2004. Filed August 1, 2005. Opinion by Greene, J.

In the interest of fundamental fairness, juveniles may be adjudged delinquent only upon trustworthy evidence that satisfies the reasonable doubt standard. To that end, the common law accomplice corroboration rule, which requires that the testimony of an accomplice be corroborated by some independent evidence, applies in juvenile proceedings. Here appellant alleges the court found he committed a delinquent act based only on the uncorroborated testimony of two accomplices.

The Court of Special Appeals had reversed the case holding that the corroboration rule applies in juvenile cases, and that the evidence was insufficient to find Anthony W. committed the delinquent act because there was no corroboration. The Court of Appeals held that while the corroboration rule applies in delinquency cases, here the trial court was not clearly erroneous in finding that the State's two witnesses were not accomplices whose testimony need not be corroborated.

cont. on next page

COURT OF SPECIAL APPEALS

Child in Need of Assistance (CINA)

In re: Karl H. and Anthony H., Nos. 2623 and 2624, September Term, 2004. Filed September 1, 2005. Opinion by Adkins, J.

In an action between the biological parents and the State involving children declared to be in need of assistance, a court order adopting concurrent permanency plans of reunification and adoption is not a final order, nor is it an appealable interlocutory order under CJP §12-303(3)(x). Citing *In re Billy W.*, 386 Md. 675 (2005), the court held that the present order was not appealable as an interlocutory order under CJP §12-303 as it does not "deprive a parent. . . of the care and custody of his child, or [change] the terms of such an order[.]" Here the parents' custody rights were abrogated when the children were adjudicated Child In Need of Assistance (CINA) and committed to the custody of the local department of social services, but not when the court adopted concurrent permanency plans. Nor was the parents' opportunity for reunification with their children diminished when the court set in motion the procedures for a possible termination of parental rights. That action simply imposed additional work on the department so that the TPR and adoption could proceed to establish a stable home for the children quickly, if necessary.

Child Support

Beck v. Beck, No. 2140, September Term, 2004. Filed November 3, 2005. Opinion by Meredith, J.

FL §12-202(a)(2)(iv) prohibits a downward deviation from the child support guidelines solely on the basis of the presence in the payor's household of a child from a previous relationship. Here the trial court had reduced the payor's child support obligation under the guidelines stating that since the payor father was raising the children's half-sibling, it was in the children's best interest that their half-sibling be supported in a reasonable manner. While the statute

permits the court to consider other children in either parent's home to whom that parent owes a duty of support, as a factor in deviating from the guidelines, the child support statute was amended in 2000 to further stipulate that this factor could not provide the sole basis for rebutting the presumption that the guidelines amount is correct.

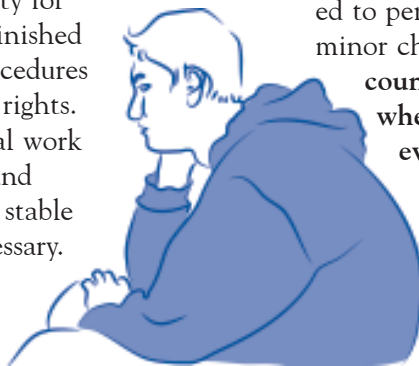
Custody

Garg v. Garg, No. 1707, September Term, 2003. Filed September 2, 2005. Opinion by Hollander, J.

Judgment reversed and remanded to permit appellant wife to proceed with her divorce action where the court dismissed her petition for divorce and custody on grounds that India had jurisdiction over the matter under the Uniform Child Custody Jurisdiction Act (UCCJA). **"Quite apart from any dispute as to custody, appellant was entitled to pursue her divorce action in the circuit court."** On remand the court will need to determine the merits of appellee's claim that he was not properly served.

The dismissal of appellant's petition was also vacated to permit the court to appoint counsel for the minor child. **The court erred in not appointing counsel for the child at the appellant's request where the custody issue was complex and where even a preliminary jurisdictional determination will affect whether the child ends up living in India or the United States.** "In view of the gravity and complexity of the custody issue, we cannot characterize the hearing as a mere "early stage of the proceedings."

For the benefit of the court on remand, the Court of Special Appeals discussed the applicability of the UCCJA and the revised uniform law now in effect, the UCCJEA, on disputes involving foreign nations. **The term "state" applies to foreign nations under the UCCJEA, so long as the foreign custody law does not offend our public policy. Here the trial court correctly deemed India a state for purposes of this custody case, so long as its child custody law does not violate "fundamental principles of human rights."** In addition, Maryland has home



Recent Family Law Decisions, cont. from p. 17

state jurisdiction because the child had resided here for more than six months; home state jurisdiction applies regardless of the reason why or circumstances under which the child came to Maryland. The court also noted that as in *Malik v. Malik*, 99 Md. App. 521 (1994), there may be some rare instances where there are two home states. On remand the court must communicate with the Indian court, as required under FL § 9.4-204(d) and §9.5-206(b)(2) to determine which court properly has jurisdiction.

B.G. v. M.R., No. 1761, September Term, 2004. Filed November 7, 2005. Opinion by Barbera, J.

There were no "exceptional circumstances" sufficient to justify placing appellant's children in the custody of a third party in light of the Court of Appeals' recent decision, *McDermott v. Dougherty*, 385 Md. 320 (2005), where the appellant father had AIDS, and the appellee grandmother had been caring for the children since the mother was murdered. While the court found the father was not "unfit," the court based its finding of "exceptional circumstances" on the fact that the grandmother had been caring for the children actively for a long period of time, and that the children had been traumatized by their mother's murder. "A third party does not necessarily overcome the presumption of parental custody by playing an active role in a child's life or by caring for the child for a period of time."

Divorce

Smith v. Luber, No. 2291, September Term, 2004. Filed November 3, 2005. Opinion by Davis, J.

A consent decree derives its legal efficacy from the consent of the parties. Judgment vacated where the trial court abused its discretion by entering an Order of Court Reflecting the Parties' Agreement when the Order failed to accurately reflect the agreement of the parties.

The parties to a divorce action had stated the

terms of their agreement on the record at a court proceeding. Counsel were to prepare a written consent agreement, but failed to agree on the points of the agreement as stated on the record. The court signed the order submitted by appellee, despite a letter from appellant's counsel that he did not accept the agreement as written. The appellate court determined that the order signed by the trial court differed in several respects from the agreement as stated on the record.

Marital Property

Woodson v. Saldana, Jr., No. 1150, September Term, 2004. Filed November 3, 2005. Opinion by Adkins, J.

The trial court erred in not considering the mandatory factors listed in FL § 8-205(b) in awarding marital property. In dicta, the court considered whether, in a situation where one spouse has a military pension derived from time on active military duty as well as in the reserves, both before and during the marriage, the court should calculate the percentage of the pension which is marital property by using a ratio derived from the time spent in service or the number of pension points earned before and during the marriage.

"[W]hen a reservist's retirement pay is not strictly a function of the length of military service, the appropriate formula is retirement points earned during the marriage divided by the total retirement points earned." The judgment was also vacated and remanded for reconsideration of the award of Crawford credits to the husband, and an "as, if and when" award of wife's civil service pension earned after the separation, in light of relevant factors.



Around Maryland

Baltimore City

As of September 12, 2005, The Juvenile Justice Center opened the doors to its Community and Family Resource Center. The Community and Family Resource Center is dedicated to providing families friendly support and informational services to Baltimore City youth and families who are or have been involved with the juvenile justice system.

Baltimore County

The Circuit Court for Baltimore County Family Division will be starting a process to deal with high conflict child access cases. An orientation/training program was held on October 27th and 28th. Hofstra University School of Law Professor Andrew Schepard was the keynote speaker at the Family Law Committee dinner held on the evening of the 27th. Professor Schepard was the moderator for the training session on the 28th.

The Circuit Court for Baltimore County will be operating a new Visitation Center at the Young Parent Support Center, 201 Back River Neck Road in Essex next month. The new service, which is a joint venture between the Court and the Baltimore County Department of Social Services, will be available for parents and guardians with children in foster care (i.e., Child In Need of Assistance and Termination of Parental Rights cases).

Carroll County

The Maryland Mediation and Conflict Resolution Office (MACRO) awarded a grant to the Circuit Court for Carroll County to hire a new mediation coordinator. Isadora Cipolletta joined the court and will be managing the court's alternative dispute resolution programs. Ms. Cipolletta recently took the Maryland Bar examination and is fluent in Spanish.

She grew up in Florida and graduated from Appalachian School of Law with a focus on mediation. The court is very pleased with the addition of Cipolletta to its staff.

Charles County

The Permanency Mediation Program in the Circuit Court for Charles County is experiencing success and anticipates the program will exceed its initial goals. The court hosted a five-day program for mediators during the first week of December. CDR Associates in Colorado conducted the training. Four days of the training were focused on the co-mediator training model and an additional day of training covered issues specific to Maryland. A planning group with representatives from the court, the Legal Aid Bureau, and the Office of the Public Defender, is in the process of developing a policies and procedures manual, a draft of which should be completed within the next few months.



Howard County

The Circuit Court for Howard County offered a Children's Attorney Training in September that conforms to the standards that the Judiciary adopted for attorneys representing children in domestic cases. Circuit Administrative Judge Diane Leasure and the National Family Resiliency Center conducted the training. More than 40 attorneys attended. As a result of the training, the court has a list of attorneys able and willing to represent children in domestic cases.

Saint Mary's County

St. Mary's County Circuit Court's Family Service Office hosted a Court Appointed Special Advocate Appreciation Luncheon on November 29, 2005, in support of the dedication of CASA volunteers serving children and families in St. Mary's County.

Department of Family Administration

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Maryland Judicial Center
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